THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.17339 OF 2006

DATED: 23.8.2006

BETWEEN:

Chakali China Swamy and another. … Petitioners.

And

The District Collector and Election Authority,
East Godavari District
And others. … Respondents.

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.17339 OF 2006

ORDER:

Heard the counsel.

The writ petition is filed for a writ of mandamus declaring the action of the respondents 1 to 4 in allowing the 5th respondent to contest the elections to the post of Sarpanch, Nellipudi Gram Panchayat and further declaring the 5th respondent as elected Sarpanch of Nellipudi Gram Panchayat as highly illegal, arbitrary unjust and contrary to the reservation policy of the Government and consequently set aside the election of the 5th respondent as Sarpanch of Nellipudi Gram Panchayat and pass such other suitable orders.

The main ground raised by the writ petitioners is that the office of the Sarpanch of the Gram Panchayat is reserved for Scheduled Tribe and the 5th respondent belongs to Yadava community which falls under the Backward Class. The counsel also relied upon the B.C. certificate issued in favour of the 5th respondent by the then Mandal Revenue Officer vide certificate No.152 dated 25.5.1988. The main grievance of the petitioners is that the second petitioner filed an objection before the third respondent on 15.7.2006 stating that the father of the 5th respondent belong to Yadava community which is a Backward Class and that the third respondent issued notice reference

No.131/2006 dated 17.7.2006 to the petitioners as well as the 5th respondent to attend the enquiry on 18.7.2006. Despite all these permitting the 5th respondent to contest to the office of the Sarpanch, though belong to the Backward Class, reserved to the Scheduled Tribe, cannot be sustained.

Though on the material available on record, submissions made by the counsel for the petitioner appears to be attractive, this Court is of the considered opinion that further probe is necessary and in view of the same, liberty is given to the writ petitioners to approach the appropriate Election Tribunal by way of Election Petition.

The writ petition is accordingly disposed of. No order as to costs.

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23.8.2006.

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